In re Patent Application of:
MCCARTHY ET AL.
Serial No. **10/779,350**
Filing Date: **February 13, 2005**

_____/

<u>REMARKS</u>

Applicants wish to thank the Examiner for the thorough examination of the present application. The specification and FIG. 2 have been amended to correct the minor typographical errors helpfully noted by the Examiner. No new matter is being added.

In view of the arguments presented in detail below, it is submitted that all of the claims are patentable.

I. The Claimed Invention

The present invention is directed to a communications system. As recited in independent Claim 1, for example, the system includes a plurality of source message servers for storing messages for delivery to a user and a target message server having a target message box associated therewith. An aggregation server is also included for periodically aggregating the messages from the source message servers to the target message box for retrieval by the user. The target message server provides a delivery failure message to the aggregation server based upon a failure to deliver a message to the target message box. Moreover, the aggregation server increases a period of sending messages to the target message box based upon a delivery failure message therefrom, and thereafter decreases the period of sending messages to the target message box based upon a successful delivery of a message thereto.

Independent Claim 10 is directed to a related aggregation server, independent Claim 15 is directed to a related

12

In re Patent Application of:
MCCARTHY ET AL.
Serial No. **10/779,350**
Filing Date: **February 13, 2005**
_____/

In the Drawings:

Attached is one (1) replacement drawing sheet. The change made to the drawings is explained in the remarks section below.

message aggregation method, and independent Claim 18 is directed
to a related computer-readable medium. As with Claim 1, each of
these claims similarly recites periodically aggregating messages
from the source message servers to the target message box for
retrieval by the user.

II.   The Claims Are Patentable

The Examiner rejected independent Claims 1, 10, 15 and
18 based upon U.S. Patent No. 6,854,007 to Hammond in view of
U.S. Patent No. 6,744,780 to Gu et al. Hammond is directed to a
system for enhancing the reliability of communicating with
electronic messages. The system sends an electronic message to
designated recipients, and then automatically helps ensure that
each message has been successfully delivered and received within
specified periods of time.

Gu et al. is directed to a system for managing a
communications network that establishes an initial polling
interval for a corresponding network element. The network
management system detects whether the network element provides at
least one status message during a group of sequential polls. Each
poll within the group is preferably separated by the initial
polling interval, and the network management system adjusts the
initial polling interval to a subsequent polling interval for the
network element based on the detection of the status message to
adaptively meet the communications traffic requirements.

The Examiner contends that Hammond teaches periodically
aggregating messages from a plurality of source message servers

to a target message box for retrieval by a user, as recited in the above-noted independent claims. It is respectfully submitted that the Examiner has mischaracterized the teachings of Hammond. In particular, the Examiner points to a message sender component **134** of the Hammond system (see FIG. 1) and contends that this component is equivalent to the recited aggregation server. The function of the message sender component is set forth at col. 5, lines 1-9 of Hammond, which is as follows:

> "The Message Sender component collects the supplied message tracking information, sends the message to the specified recipients, and stores the message tracking information and the message send time in the Message Tracking Table. The Message Sender component also sets appropriate Resend timers (based on the delivery resend time period) and Review Reminder Timers (based on the Review Reminder Time period) for the recipients as indicated in the message tracking information supplied by the sender."

From the above-quoted text it is evident that the message sender component merely collects the message tracking information provided by the sender, sends the messages, and controls re-sending intervals, etc., based thereon. Nowhere does Hammond teach or fairly suggest periodically aggregating messages from a plurality of source message servers to a target message box for retrieval by a user.

To the contrary, the message sender component is performing the opposite function to the one recited in the above-noted independent claims. That is, the message sender component

is sending messages from a single originating server to a
plurality of different recipient servers, rather than taking
received messages from a plurality of recipient servers and
delivering them to a single aggregated mailbox for the user.
Accordingly, upon taking all of the teachings of the prior art as
a whole, a prima facie case of obviousness has not been
established as the selective combination of references fails to
teach all of the elements recited in the above-noted independent
claims, and the rejection of these claims should be withdrawn for
this reason alone.

Nevertheless, the selective combination of references
proposed by the Examiner is also improper since this would render
the Hammond system unsatisfactory for its intended purpose. More
particularly, the intended purpose of the Hammond system is to
automatically help ensure that each message has been successfully
delivered and received within specified periods of time, and, if
not, perform a specified function (e.g., re-sending the message).
See, e.g., col. 2, lines 9-30. Yet, the network management system
of Gu et al. is designed to change a polling interval of network
elements so that channel capacity is commensurate with traffic
activity produced by the network elements. See, e.g., col. 1, 49-
52, and line 55 through col. 2, line 3.

Thus, Hammond teaches performing a certain action
(i.e., re-sending an email) if a response is not received within
a set time period. Gu et al. teaches decreasing a polling
interval of network elements when network traffic increases. Yet,
it is during times of increased traffic when messages are more

In re Patent Application of:
MCCARTHY ET AL.
Serial No. **10/779,350**
Filing Date: **February 13, 2005**
_____/

likely to be delayed or not delivered at all. This is the very thing that Hammond seeks to detect by designating set periods for response and taking action if no delivery confirmation is received. However, to somehow use a variable interval scenario as Gu et al. teaches for detecting and acting upon delivery failures would increase the time it would take to detect such failures during those times when the failures are more likely. Accordingly, taking all of the teachings of the prior art as a whole, the proposed combination of references would render the primary Hammond system unsuitable for its intended purpose, and in fact would change its principle of operation. As such, there can be no proper motivation or suggestion to combine the references as the Examiner proposes, and the rejection of the above-noted independent claims should be withdrawn for this reason as well.

Accordingly, it is submitted that independent Claims 1, 10, 15 and 18 are patentable over the prior art. Their respective dependent claims, which recite yet further distinguishing features, are also patentable over the prior art and require no further discussion herein.
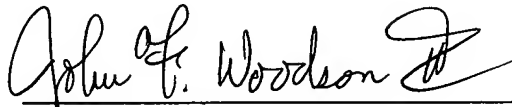
CONCLUSIONS

In view of the foregoing, it is submitted that all of the claims are patentable. Accordingly, a Notice of Allowance is respectfully requested in due course. Should any minor informalities need to be addressed, the Examiner is encouraged to contact the undersigned attorney at the telephone number listed

In re Patent Application of:
MCCARTHY ET AL.
Serial No. **10/779,350**
Filing Date: **February 13, 2005**
_____/

below.

Respectfully submitted,

JOHN F. WOODSON, II
Reg. No. 45,236
Allen, Dyer, Doppelt, Milbrath
    & Gilchrist, P.A.
255 S. Orange Avenue, Suite 1401
Post Office Box 3791
Orlando, Florida 32802
Telephone: 407/841-2330
Fax: 407/841-2343
Attorney for Applicants

17

In re Patent Application of:
MCCARTHY ET AL.
Serial No. **10/779,350**
Filing Date: **February 13, 2005**
_____/

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: MS Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 21st day of July, 2005.

18